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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/699,548	10/31/2003	Michael F. Hoey	M190.133.102	3065
7:	590 06/01/2005		EXAM	INER
DICKE, BILLIG & CZAJA, PLLC			PEFFLEY, MICHAEL F	
Fifth Street Tov	wers			
<b>Suite 2250</b>	•		ART UNIT	PAPER NUMBER
100 South Fifth Street 3739				
Minneapolis, N	MN 55402		D. TT. M. M. ED. 04/01/000	_

DATE MAILED: 06/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

			Sp				
	Application No.	Applicant(s)	_ <u>0_v</u>				
	10/699,548	HOEY ET AL.					
Office Action Summary	Examiner	Art Unit					
	Michael Peffley	3739					
The MAILING DATE of this communication Period for Reply	appears on the cover sheet w	ith the correspondence address					
A SHORTENED STATUTORY PERIOD FOR RE	PLY IS SET TO EXPIRE 3 M	IONTH(S) FROM					
THE MAILING DATE OF THIS COMMUNICATIO  - Extensions of time may be available under the provisions of 37 CFI after SIX (6) MONTHS from the mailing date of this communication  - If the period for reply specified above is less than thirty (30) days, a  - If NO period for reply is specified above, the maximum statutory pe  - Failure to reply within the set or extended period for reply will, by st Any reply received by the Office later than three months after the m earned patent term adjustment. See 37 CFR 1.704(b).	DN. R 1:136(a). In no event, however, may a reply within the statutory minimum of thi riod will apply and will expire SIX (6) MOI atute, cause the application to become A	reply be timely filed ty (30) days will be considered timely. NTHS from the mailing date of this communication BANDONED (35 U.S.C. § 133).	on.				
Status							
1) Responsive to communication(s) filed on 3	1 October 2003.						
2a) ☐ This action is <b>FINAL</b> . 2b) ☑ 1	This action is non-final.						
	Since this application is in condition for allowance except for formal matters, prosecution as to the merits is						
closed in accordance with the practice und	er <i>Ex parte Quayle</i> , 1935 C.[	). 11, 453 O.G. 213.					
Disposition of Claims							
4) Claim(s) 6-48 is/are pending in the applicat	Claim(s) <u>6-48</u> is/are pending in the application.						
4a) Of the above claim(s) is/are with	drawn from consideration.						
5) Claim(s) is/are allowed.							
6)⊠ Claim(s) <u>6-48</u> is/are rejected.							
7) Claim(s) is/are objected to.	Claim(s) is/are objected to.						
8) Claim(s) are subject to restriction ar	nd/or election requirement.						
Application Papers							
9)⊠ The specification is objected to by the Exam	niner.						
10)⊠ The drawing(s) filed on <u>31 October 2003</u> is/	'are: a)⊠ accepted or b)□ o	bjected to by the Examiner.					
Applicant may not request that any objection to	the drawing(s) be held in abeya	nce. See 37 CFR 1.85(a).					
Replacement drawing sheet(s) including the cor	_		(d).				
11)☐ The oath or declaration is objected to by the	Examiner. Note the attache	d Office Action or form PTO-152.					
Priority under 35 U.S.C. § 119							
12) Acknowledgment is made of a claim for fore a) All b) Some * c) None of: 1. Certified copies of the priority docum 2. Certified copies of the priority docum 3. Copies of the certified copies of the papplication from the International But	nents have been received. nents have been received in A priority documents have beer reau (PCT Rule 17.2(a)).	Application No received in this National Stage					
* See the attached detailed Office action for a	list of the certified copies not	received.					
Attachment(s)							
1) Notice of References Cited (PTO-892)	4) Interview	Summary (PTO-413)					
<ol> <li>Notice of Draftsperson's Patent Drawing Review (PTO-948)</li> <li>Information Disclosure Statement(s) (PTO-1449 or PTO/SB Paper No(s)/Mail Date <u>10/31/03</u>.</li> </ol>		s)/Mail Date nformal Patent Application (PTO-152)					

Page 2

The disclosure is objected to because of the following informalities: the first sentence of the specification must be updated to provide the most current status (i.e. US Patent Number) of the related applications.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 6-16, 19-32, 35-45 and 48 are rejected under 35 U.S.C. 102(b) as being anticipated by Jackson et al (5,383,874).

Jackson et al disclose a surgical system comprising a surgical instrument (22) having an ablation element (16), a memory chip on the instrument and a processor for receiving the information stored on the chip (see columns 7 and 8). The processor is adapted to limit the number of times the device may be used (Abstract and col. 8, lines 59+) and is adapted to relate the delivery of appropriate energy based on the stored parameter (columns 7 and 8). The catheter may include a temperature sensor and store information regarding the temperature sensor (col. 7, lines 20-25). The method of operating such a device is fully disclosed by Jackson et al.

Application/Control Number: 10/699,548

Art Unit: 3739

## Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 17, 18, 33, 34, 46 and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jackson et al (5,383,874) in view of the teaching of Nardella (5,334,193).

The Jackson et al system has been previously addressed. While Jackson et al disclose that various catheters may be connected to the system, there is no specific mention of providing a source of fluid through the catheter and/or storing information regarding fluid flow.

The examiner maintains that one of ordinary skill in the art would recognize that any well-known catheter may be used with the Jackson et al system, including a fluid delivery catheter such as taught by Nardella. The Nardella catheter is very much like the ablative catheter disclosed by Jackson et al, and specifically includes means to provide a conductive fluid through the catheter as well as means to control the flow of the fluid. To have stored information regarding the fluid-flow parameters of such a catheter, or any other relevant information, would have been an obvious consideration for one of ordinary skill in the art.

To have provided the Jackson et al system with a fluid-delivery ablation catheter to enhance treatment of tissue in the presence of fluid would have been an obvious

Art Unit: 3739

modification for one of ordinary skill in the art, particularly since Nardella teach of the advantages of providing conductive fluid to tissue during RF ablation procedures.

## Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bek et al (6,827,713), Panescu et al (6,165,169) and Stern et al (5,743,903) all disclose various catheter identifier devices much like the Jackson et al ('874) system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Peffley whose telephone number is (571) 272-4770. The examiner can normally be reached on Mon-Fri from 6am-3pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda Dvorak can be reached on (571) 272-4764. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3739

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Michael Peffley

Primary Examine Art Unit 3739

Mp May 31, 2005